

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

RESEA PROJECT APS,

Plaintiff,

v.

RESTORING INTEGRITY TO THE
OCEANS, INC. and KEIRAN KELLY,

Defendants.

§
§
§
§
§
§
§
§
§
§

SA-21-CA-1132-JKP (HJB)

ORDER

Before the Court is Plaintiff's First Motion to Compel Discovery & Request for Expedited Briefing. (Docket Entry 36.) Pretrial and scheduling matters in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1). (*See* Docket Entry 9.)

A hearing was held on this matter on March 30, 2022. In accordance with the Court's rulings at the hearing, it is hereby **ORDERED** that Plaintiff's First Motion to Compel Discovery & Request for Expedited Briefing (Docket Entry 36) is **GRANTED IN PART, DENIED IN PART, DENIED AS MOOT IN PART**, and **DENIED WITHOUT PREJUDICE IN PART**, as follows:

1) As to Plaintiff's request for metadata associated with produced documents:

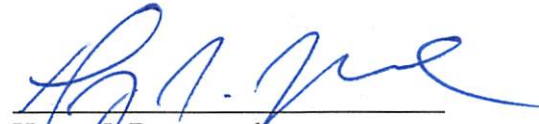
- a. With respect to produced photos, the motion is **GRANTED** as agreed by the parties at the hearing and in accordance with the procedures set out in the Confidentiality and Protective Order issued by the Court on February 4, 2022 (Docket Entry 24);
- b. With respect to the two e-mail accounts used by Defendant Kieran Kelly, the motion is **GRANTED IN PART**. **On or before April 8, 2022**,

Defendant Kelly must provide defense counsel with access to these email accounts. Defense counsel must then supplement Defendants' responses to Plaintiff's requests for production with relevant metadata **on or before April 15, 2022**.

- c. With respect to Defendants' WhatsApp account(s), the motion is **DENIED WITHOUT PREJUDICE** to the filing of a specific motion to compel production filed in accordance with paragraph 4, *infra*.
- 2) As to Plaintiff's request that defense counsel serve as "gatekeeper" for documents or ESI produced in discovery, the motion is **GRANTED IN PART** as indicated in paragraph 1(b), *supra*; otherwise, it is **DENIED WITHOUT PREJUDICE** to any specific motion to compel or for expenses under Federal Rule of Civil Procedure 37(a)(5)(A) or 37(b)(2)(C).
- 3) As to Plaintiff's request that Defendants' response indicate whether materials are being withheld on the basis of an objection, *see* FED. R. CIV. P. 34(b)(2)(C), the motion is **DENIED IN PART** and **DENIED AS MOOT IN PART**.
- 4) **On or before April 8, 2022**, the parties must confer in good faith regarding the discovery in this case. *Cf.* FED. R. CIV. P. 26(f). If any disagreement remains after such conference, the either party may present the issue to this Court by filing a motion to compel or for protective order **on or before April 22, 2022**. The parties are hereby given notice that, at any hearing on such motion, the Court will consider whether to require the parties or their counsel to pay attorney's fees and other

5) expenses in accordance with Federal Rule of Civil Procedure 37(a)(5)(A), (B), and (C).

SIGNED on March 30, 2022.


Henry J. Bemporad
United States Magistrate Judge